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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,989	02/26/2007	Thomas Gross	1717552	1863
24240 7590 03/08/2011				
CHAPMAN AND CUTLER				
111 WEST MONROE STREET				
CHICAGO, IL 60603				
EXAMINER				
BERRY, WILLIE WENDELL JR				
ART UNIT		PAPER NUMBER		
3652				
MAIL DATE		DELIVERY MODE		
03/08/2011		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/581,989

Applicant(s)

GROSS, THOMAS

Examiner

WILLIE BERRY

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-10,12,14,16,17,19 and 20 is/are rejected.
- 7) ☒ Claim(s) 4,11,13,15 & 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-10, 12, 14, 16, 17, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over patent no. 2,507,341 to Lee.

Regarding claim 1, the recited method steps for haulage of subsurface-mined material using at least two similar vehicles are considered to obvious to Lee, since Lee discloses all of the claimed structural limitations in the claims comprising: moving said at least two similar vehicles in the a roadway section between a heading face and a continuously extended haulage means (col. 1, lines 1-11), and conducting at least one material transfer from a first of said similar vehicles to a second of said similar vehicles between the heading face and a transfer of the material to the haulage means (col. 1, lines 1-11).

Regarding claim 2, Lee discloses an adjustable conveying device (24 and col. 5, lines 22-43).

Regarding claim 3, Lee discloses an articulated axis (36).

Regarding claim 5, Lee discloses a linear conveying device in the form of a sled (not numbered, but shown in fig. 1).

Regarding claim 6, Lee discloses a conveying means (25).

Regarding claim 7, Lee discloses a retractable conveying device (24 and col. 5, lines 5-21).

Regarding claim 8, Lee discloses linear conveying devices that are belts (col. 3, lines 42-52).

Regarding claim 9, Lee discloses a sled (25).

Regarding claim 10, Lee discloses a retractable linear conveying device (24 and col. 5, lines 5-21) and conveying means (25).

Regarding claim 12, Lee discloses a linear conveying device in the form of a sled (not numbered, but shown in fig. 1).

Regarding claim 14, Lee discloses a conveying means (25).

Regarding claim 16, Lee discloses a conveying means (25).

Regarding claim 17, Lee discloses a retractable conveying device (24 and col. 5, lines 5-21).

Regarding claim 19, Lee discloses a retractable conveying device (24 and col. 5, lines 5-21).

Regarding claim 20, Lee discloses a retractable conveying device (24 and col. 5, lines 5-21).

Allowable Subject Matter

Claims 4, 11, 13, 15 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 12/14/10 have been fully considered but they are not persuasive. Applicant argues Lee does not suggest using two similarly shaped vehicles. The examiner disagrees because Lee states in col. 1, lines 1-11 that he uses two vehicles, a shuttle car and a mine car or something like a mine car. The examiner interprets the phrase "something like a mine car" to mean a shuttle car. Next applicant argues that Lee does not disclose material being transferred between two cars between a heading face and haulage means. The examiner disagrees because Lee states in the aforementioned section that the shuttle cars having conveyors/haulage means on them. The examiner interprets this section to mean that when the material is being transferred between the two vehicles it takes as applicant claims between a heading face and haulage means.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIE BERRY whose telephone number is (571)272-6191. The examiner can normally be reached on Mon-Fri, 11:30-8pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on (571)272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Saúl J. Rodríguez/
Supervisory Patent Examiner, Art
Unit 3652

Wbj.